

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: DIGITEK PRODUCTS LIABILITY LITIGATION

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

**APPLICATION OF DANIEL E. BECNEL, JR. FOR
APPOINTMENT TO THE PLAINTIFFS' STEERING COMMITTEE**

The Becnel Law Firm, LLC, makes this application to be a member of the Plaintiffs' Steering Committee based on the following qualifications:

My office filed two of the first Digitek cases in the United States District Court, Eastern District of Louisiana, civil action nos. 08-3167 and 08-3431. My office also filed 14 individual cases (civil action nos. 1:08-cv-146, 1:08-cv-147, 1:08-cv-148, 1:08-cv-149, 1:08-cv-150, 1:08-cv-151, 1:08-cv-152, 1:08-cv-153, 1:08-cv-154, 1:08-cv-155, 1:08-cv-156, 1:08-cv-157, 1:08-cv-158, and 1:08-cv-159) in the United States District Court, Northern District of West Virginia. In the Digitek case I secured numerous experts, including Dr. Daniel Acosta, a Pharmacologist/Toxicologist from Cincinnati; Dr. John Markis, a Cardiologist from Harvard, as well as Dr. Suzanne Parisian, a FDA expert. From the inception of the litigation I have worked with lawyers from throughout the country and was one of the organizers of the AAJ Litigation Group which held a meeting in Philadelphia attended by over 200 lawyers who were interested in this case. My office additionally filed the moving papers for the MDL.

My office consists of over 20 lawyers, 3 nurses, numerous paralegals, as well as a computer expert with a masters degree.

I have been one of the leaders in mass torts, products liability, plant explosions, train derailments, air crashes, and ship collisions across the country. At the present time, I am working closely with Motley Rice in MDL No. 1763, In Re Human Tissue Products Liability Litigation. In reference to mass torts, the following are a few of the cases in which I have served as either Lead Counsel, Trial Attorney or as a member of the Executive Committee. I also initiated many of the below-listed as a mass tort before the MDL Panel.

1) Founding member of Dianne Castano, et al v. The American Tobacco Company, et al; represented Governor Gray Davis and the State of California in the states' settlement with the tobacco industry.

2) Appointed to the National Plaintiffs' Steering Committee: MDL 1038 Norplant Contraceptive Products Liability Litigation (National MDL depository located at my office complex in Louisiana, under my direction); DL 1057 Telectronics Pacing Systems, Inc., Accufix "J" Leads Products Liability Litigation; In re Chemical Release at Bogalusa (case was tried for three and a half months and a jury found all parties liable, and included a \$92 million punitive damage award to the class); MDL 1148 In re Latex Gloves Products Liability Litigation; Jimmie Badon, Jr., et al v. DSI Transports, Inc., et al, 19th Judicial District Court, Number 450,957 (case settled for \$9,750,000.00); Carl Bell, et al v. Kaiser Aluminum and Chemical Corporation, 23rd Judicial District Court, No. 25,975 (case settled for \$26,600,000.00, plus \$11,000,000.00 for the "inside-the-gate" cases); MDL 1355 Propulsid Products Liability Litigation; MDL 1431 In Re Baycol Products Liability Litigation (case settled for \$1.2 billion); MDL 1477 In Re Serzone Products Liability Litigation (case settled for \$76 million); MDL 1535 In Re Welding Rod Products Liability Litigation; MDL No. 1626, In Re Accutane Products Liability Litigation; MDL No. 1629 In Re Neurontin Marketing and Sales Practices Litigation; MDL No. 1691 In Re Bextra and Celebrex Litigation (tentative resolution reached in 400 cases); MDL No. 1708 In Re Guidant Corp. Implantable Defibrillators Products Liability Litigation (participated in settlement negotiations which resulted in a settlement of \$240 million); MDL No. 1726 In Re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation in Minneapolis, Minnesota (settlement reached \$195 million); Murphy Oil Litigation (case was settled for \$330 million); MDL No. 1742 In Re Ortho Evra Products Liability Litigation; MDL 1763 In Re Human Tissue Products Liability Litigation; MDL No. 1845 In Re ConAgra Peanut Butter Products Liability Litigation; MDL No. 1785 In Re Bausch & Lomb Inc. Contact Lens Solution; MDL No. 1953, In Re Heparin Products Liability Litigation ;

3) Lead attorney in the case of Katharine Christiano, et al v. Napp Technologies, Inc. in Bergen County, New Jersey. That case was settled for \$27 million.

4) Appointed as State/Federal Liaison to the national class action in MDL 1203 In re Diet Drug (Phentermine/Fenfluramine/Dexfenfluramine) Product Liability Litigation. Case settled for \$22 billion (both State and Federal).

5) Appointed to serve as Class Counsel in MDL 1401 Sulzer Inter-Op Hip Prosthesis Products Liability Litigation (a class settlement in the amount of over \$1,000,000,000.00 has been reached).

6) Appointed Liaison Counsel in reference to MDL No. 1632 In re High Sulfur Content Gasoline Products Liability Litigation. Settled for \$100 million.

7) Appointed Lead Counsel in MDL No. 1724 In Re Viagra Products Liability Litigation. Took most of the major depositions throughout the country, including London, England.

8) Lead Trial Counsel in reference to the Mother's Day Bus Crash which was tried after portions of the case was tried and settled. Case was settled against Custom Bus, Reliance Insurance Company, Mardi Gras Casino and Dr. Shaunda Jones. I tried the case against the State of Louisiana, Department of Transportation and Development resulting in a judgment finding the State 50% at fault. This judgment has been affirmed by an *en banc* panel of the Louisiana Fourth Circuit Court of Appeals.

9) Our office was one of three law firms which handled the DPC Festus, Missouri case which was the largest release of chlorine in the United States which injured approximately 345 people, and caused extensive property damage. This case settled at the end of 2007 for \$22 million.

10) Our office was one of three law firms which handled the Minot North Dakota Train Derailment case, the largest anhydrous ammonia release in the country. The case settled at the end of 2007 for \$35 million against the Canadian Pacific Railroad.

11) Featured speaker at Mass Torts Made Perfect Seminar on the Bausch & Lomb case on October 12 & 13, 2006. Appointed to the Executive Committee, MDL No. 1785, In Re Bausch & Lomb Inc. Contact Lens Solution.

These are a representative selection of cases in which I have been involved in during my career. Filed over 2000 Katrina insurance cases. After extensive negotiations, approximately 600 cases have been resolved against insurers thereby reducing the docket by about 25 cases per U.S. District Judge in the Eastern District of Louisiana. These are individualized settlements and numerous other insurers are in line to mediate these cases.

I ask the Court to allow me to serve as Lead Counsel or Co-Lead Counsel or, alternatively, as a member of the Plaintiffs' Steering Committee. I can devote the time necessary to this case is because my entire career has been devoted to representing people throughout the country, and my office is often relied upon to organize, finance, and litigate major complex cases. I can assure the Court I will commit whatever resources are necessary to make this Court proud of my work ethic and commitment to make this MDL a success.

Respectfully submitted,

/s/ Daniel E. Becnel, Jr.
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